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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/599,866

10/12/2006

Stein Kuiper

GB 040089

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09/10/2008

PHILIPS INTELLECTUAL PROPERTY & STANDARDS

P.O. BOX 3001

BRIARCLIFF MANOR, NY 10510

EXAMINER

MARTINEZ, JOSEPH P

ART UNIT

PAPER NUMBER

2873

MAIL DATE

DELIVERY MODE

09/10/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/599,866	<b>Applicant(s)</b> KUIPER ET AL.	
	<b>Examiner</b> JOSEPH MARTINEZ	<b>Art Unit</b> 2873	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 August 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 October 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments, see p. 5-6, filed 8-27-08, with respect to the rejection(s) of claim(s) 1-5 under 35 USC 102(b) and 103(a), respectively, have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Tsuboi et al. (6702483). Re applicant's arguments on p. 5-6, wherein the applicant argues that the Final Office Action, mailed on 6-27-08, rejects claims 1-5 in view of Tsuboi et al. (6702483) but points to aspects of prior art Onuki et al. (6806988) have been considered, and are persuasive. The examiner inadvertently confused prior art Onuki et al. (6806988) with prior art Tsuboi et al. (6702483).

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, and 3-5 are rejected under 35 U.S.C. 102(b) as being fully anticipated by Tsuboi et al. (6806988).

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Re claim 1, Tsuboi et al. teaches for example in fig. 1, 5, 7A-B, 10A-C and 11A-B, a variable focus lens (1) comprising: a container (1a) enclosing an insulating liquid (8) and a conducting liquid (9), the insulating liquid and the conducting liquid being immiscible (fig. 10A-C), having different refractive indices (col. 17, ln. 46-47)) and being in contact with each other via an interface (fig. 10A-C), the liquids being at least partially placed in a light path through the container (fig. 7A-B); an electrode arrangement (10, 11) for controlling the shape of the interface by means of a voltage (col. 10, ln. 36-38 and col. 10, ln. 43-45); the container further comprising a transparent end portion (right side of lens 1a in fig. 10A-C) in the light path, a part of the transparent end portion being in direct contact with and defining the shape of a central portion of the interface (fig. 10C) at a predefined voltage (col. 10, ln. 56-63).

Re claim 3, Tsuboi et al. teaches for example in fig. 1, 5, 7A-B, 10A-C and 11A-B, an electronic device comprising: a variable focus lens comprising: a container (1a) enclosing an insulating liquid (8) and a conducting liquid (9), the insulating liquid and the conducting liquid being immiscible (fig. 10A-C), having different refractive indices (col. 17, ln. 46-47) and being in contact with each other via an interface (fig. 10A-C), the liquids being at least partially placed in a light path through the container (fig. 7A-B); an electrode arrangement (10, 11) for controlling the shape of the interface by means of a voltage (col. 10, ln. 36-38 and col. 10, ln. 43-45); the container further comprising a transparent end portion (right side of lens 1a in fig. 10A-C) in the light path, a part of the transparent end portion being in direct contact with and defining the shape of a central

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portion of the interface at a predefined voltage (fig. 10C); and driver circuitry (142) coupled to the electrode arrangement (via 144; fig. 5), the driver circuitry being arranged to: apply the predefined voltage across the electrode arrangement in an idle state of the variable focus lens (fig. 10A-C; col. 10, ln. 56-63); and apply a further voltage across the electrode arrangement for separating the interface from the transparent end portion when the variable focus lens is enabled (fig. 10A-C; col. 10, ln. 56-63).

Re claim 4, Tsuboi et al. further teaches for example in fig. 1, 5, 7A-B, 10A-C and 11A-B, the further voltage is a further predefined voltage (fig. 10A-C; col. 10, ln. 56-63).

Re claim 5, Tsuboi et al. further teaches for example in fig. 1, 5, 7A-B, 10A-C and 11A-B, the electronic device further comprises an image sensor (134) for sensing light passing through the variable focus lens (1), the image sensor being arranged to provide the driver circuitry (142) with an output signal for controlling the magnitude of the further voltage (col. 10, ln. 56-63).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tsuboi et al. (6806988).

Re claim 2, supra claim 1. Furthermore, Tsuboi et al. further teaches for example in fig. 1, 5, 7A-B, 10A-C and 11A-B, a predefined voltage of the applied voltage (col. 10, ln. 56-63).

But, Tsuboi et al. fails to explicitly teach the applied voltage is 0V.

However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a predefined voltage of the applied voltage as 0V, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Tsuboi et al. with the predefined voltage of 0V, in order to reduce the amount energy used to maintain a shape of the lens.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph P. Martinez whose telephone number is 571-272-2335. The examiner can normally be reached on M-F 7:00 AM to 3:30 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Mack can be reached on 571-272-2333. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Joseph Martinez/  
Patent Examiner, AU 2873  
9-6-08